

### **REMARKS**

Claims 1-4 are currently pending in the present application. Claim 1 is the only claim in independent form. All remaining claims have been canceled without prejudice in order to expedite the allowance of the present application.

Specifically referring to the Office Action, claims 21 and 23 have been rejected under 35 U.S.C. § 112, first paragraph, for lack of enablement. In order to expedite the allowance of the present application, claims 21 and 23 have been canceled without prejudice. As a result, the outstanding rejection has been rendered moot.

Claims 1-4, 21, and 23 have been rejected under 35 U.S.C. § 102(b) as being anticipated by the McOrist, et al. reference. According to the Office Action, the McOrist, et al. reference discloses an isolated polypeptide relating to *Lawsonia intracellularis* organisms. Since claims 21 and 23 have already been canceled, the outstanding rejection is only applied towards claims 1-4.

In response to the rejection, claims 1-4 have been amended to be specifically directed towards a recombinant polypeptide and SEQ ID NO. 1. In contrast, the McOrist, et al. reference describes an isolated polypeptide relating to *Lawsonia intracellularis* organisms. Additionally, the polypeptide presently claimed has a very different isoelectric point or PI value than the McOrist, et al polypeptide. The presently claimed polypeptide has a value of 8.7, while the McOrist, et al polypeptide has a value of 4.5. Moreover, the McOrist, et al

polypeptide has an apparent denatured value of 25kD to 27kD, while the presently claimed polypeptide is about 28kD. Since the presently claimed polypeptide has different structures, properties, and functions from the polypeptide disclosed in the McOrist, et al reference, the presently claimed invention is not anticipated by the prior art. Reconsideration of the rejection is respectfully requested.

Finally, claims 1-4 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. In response thereto, the presently pending claims have been amended to further clarify the present invention. More specifically, the claims have been amended to specifically claim a recombinant immunogenic polypeptide comprising SEQ ID NO: 1. Reconsideration of the rejection is respectfully requested.

It is respectfully submitted that the present amendment places the application in condition for allowance as it removes all remaining issues in dispute. Specifically, the amendment follows suggestions set forth in the Office Action, is made without prejudice, and clarifies the present invention. As a result, no remaining issues are in dispute. Since there is no prior art cited against any of these claims, it is respectfully submitted that all of the claims are in condition for allowance. It is also respectfully submitted that the present amendment places the application in better condition for appeal. The claims have not been made broader in scope, thereby requiring no further searching nor

raise any new issues. In fact, all claims now include limitations of previously pending claims and were therefore previously searched.

It is respectfully requested that the present amendment be entered in order to place the application in condition for allowance or at least in better condition for appeal. The application is placed in condition for allowance as it addresses and resolves each and every issue that remains pending. The application is made at least in better condition for appeal as the amendment removes any issues thereby simplifying the issues on appeal. That is, each and every rejection has been overcome. Hence, it is respectfully requested that the amendment be entered.

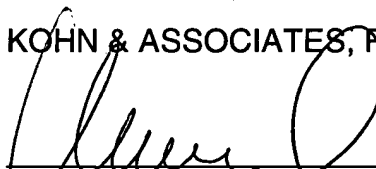
Applicants respectfully request to be contacted by telephone at (248) 539-5050 if any remaining issues exist.

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The Commissioner is authorized to charge any fee or credit any overpayment in connection with this communication to our Deposit Account No. 11-1449.

Respectfully submitted,

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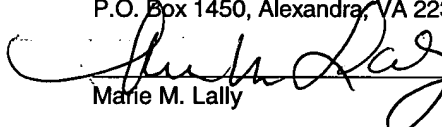
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Dated: September 28, 2005

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I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" addressed to the Assistant Commissioner for Patents, MAIL STOP AF, P.O. Box 1450, Alexandria, VA 22313-1450 on September 28, 2004.



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